

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GENE GERDES and ALICE GERDES, )  
)  
Plaintiffs, )  
)  
v. )  
)  
MILDRED KITTELMANN, RANDY )  
KITTELMANN, MONTE KITTELMANN, )  
and BRUCE KITTELMANN, )  
)  
Defendants. )  
\_\_\_\_\_ )

7:06CV5002

ORDER

This matter came on for hearing on the plaintiff's motion for Contempt Citation and Enforcement of Settlement Agreement, Filing No. [26](#). Mark Kovarik appeared on behalf of the plaintiffs, and V. Gene Summerlin, Jr., appeared on behalf of the defendants. The court finds that an inspection of the land in question, an examination of the evidence submitted and an investigation which includes discussion with local authorities is necessary. The court finds that a special master is best suited to conduct this inquiry and to submit a recommendation to the court.

The court contacted three attorneys who are willing to perform this task. The court instructs the parties that on or before **March 18, 2011**, the plaintiffs and defendants must advise the court which of the three nominees they prefer and to which nominee(s) they object. The court will then appoint one of the three nominees special master. Counsel for each of the parties may contact the offices of each nominee for the limited purpose of determining the nominee's fee schedule.

The parties are required to pay into the court on or before **April 1, 2011**, sufficient funds to compensate the special master. The court orders the plaintiffs and the

defendants to pay into the clerk of court the total sum of \$5,000.00. The plaintiffs, as a group, are ordered to pay \$2,500.00 toward this total sum. The defendants, as a group, are ordered to pay \$2,500.00 towards this total sum. The court will hold these funds for payment to the special master. Any excess funds will be equally returned to the respective group of plaintiffs and defendants.

The clerk of court is ordered to hold said sums in an interest-bearing account until further order of the court.

The nominated special masters are:

1. Michael F. Kinney  
Cassem, Tierney, Adams, Gotch & Douglas  
8805 Indian Hills Drive, #300  
Omaha, NE 68114-4070
2. Steven F. Mattoon  
Matzke, Mattoon & Miller  
907 Jackson St.  
P.O. 316  
Sidney, NE 69162-0316
3. Howard Olsen, Jr.  
Simmons, Olsen Law Firm, P.C.  
1502 2<sup>nd</sup> Ave.  
Scottsbluff, NE 69361-3174

DATED this 8<sup>th</sup> day of March, 2011.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge